Report on the

Home Builders Licensure Board

Montgomery, Alabama



Department of Examiners of Public Accounts

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29-S-10

STATE OF ALABAMA

Department of

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June 18, 2008

Representative Howard Sanderford Chairman, Sunset Committee Alabama State House Montgomery, AL 36130

Dear Mr. Sanderford:

This report was prepared to provide information for use by the Sunset Committee in conducting its review and evaluation of the operations of the **Home Builders Licensure Board** in accordance with the *Code of Alabama 1975*, Section 41-20-9.

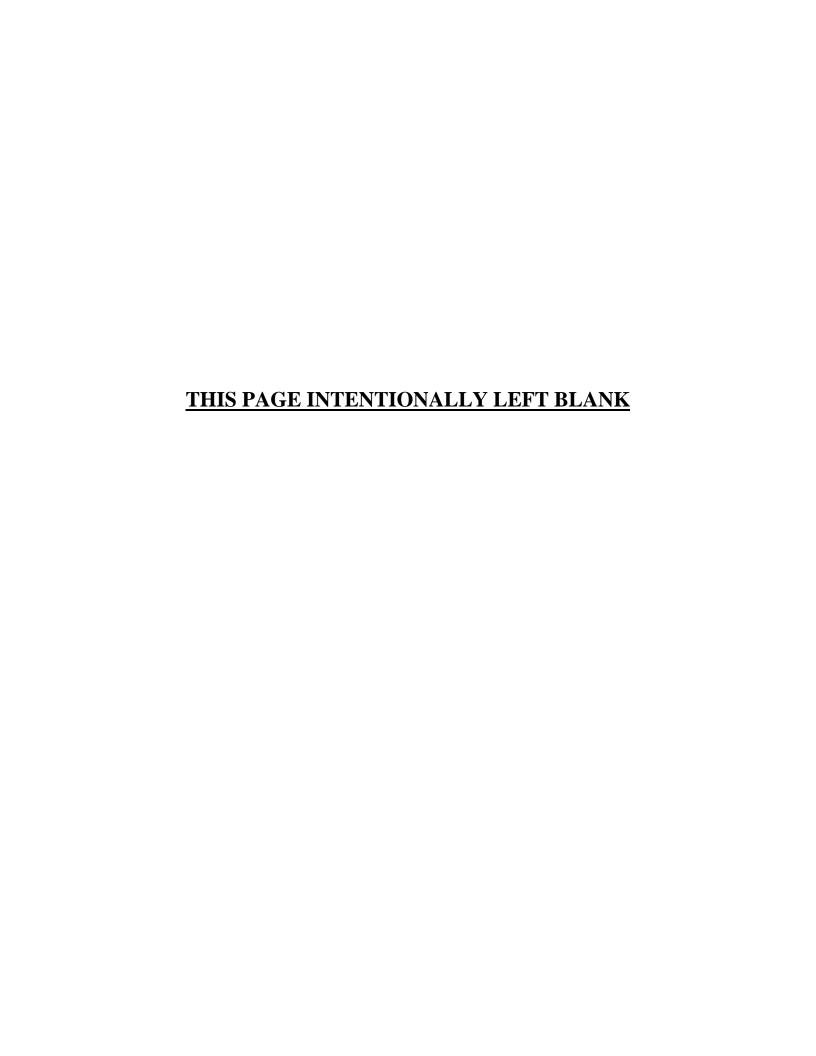
The report contains unaudited information obtained from the management, staff, and records of the **Home Builders Licensure Board**, in addition to information obtained from other sources.

Please contact me if you have any questions concerning this report.

Sincerely,

Chief Examiner

Examiner
Janet L. Berry



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PROFILE

Purpose/Authority

The Home Builders Licensure Board was created by Act Number 92-608, Acts of Alabama and operates under authority of the *Code of Alabama 1975*, Sections 34-14A-1 through 34-14A-18. The board provides licensure of those persons who engage in home building and private dwelling construction including home remodeling. The board operates a recovery fund from which an injured consumer, within limits set by law, may recover damages when the consumer has been harmed through conduct of a licensee in violation of the law or the rules of the board.

Board Characteristics

Members	9 members			
and	7 members			
Selection	3 by the Governor			
Selection	3 by the Lieutenant Governor			
	3 by the Speaker of the House of Representatives			
	All are appointed from a list of qualified persons selected by the governing body of the Home Builders Association of Alabama.			
	Code of Alabama, 1975 § 34-14A-3			
Term	3 year-staggered			
	Code of Alabama, 1975 § 34-14A-3			
Qualifications	7 residential home builders			
	 At least 5 years experience 			
	Residents of Alabama			
	• 1 building official or inspector			
	 Currently employed by a city, county, or state governmental entity 			
	 Actively engage in inspecting or regulating residential construction in Alabama 			
	• 1 consumer member from the general public			
	 Not employed by or affiliated with a licensee 			
	 No spouse or immediate family member employed by or affiliated with a licensee 			
	Code of Alabama, 1975 § 34-14A-3			

Racial Representation	No specific racial representation required by statute One black member
Geographical Representation	At least one member from each United States Congressional District
	Code of Alabama, 1975 § 34-14A-3
Consumer	One consumer member required and serving
Representation	Code of Alabama, 1975 § 34-14A-3
Other Representation	The membership of the board shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state. Code of Alabama, 1975 § 34-14A-3
Compensation	Members of the board may be compensated in an amount not to exceed three hundred fifty dollars (\$350) per day, not to exceed 15 days per year, for attending meetings of the board or its committees and, in addition, may be reimbursed for such necessary travel expenses as are paid to state employees. *Code of Alabama, 1975 § 34-14A-4* Currently, members are paid compensation of \$300 per day.

Operations

Administrator	J. R. "Chip" Carden, Jr., executive director Appointed by the board to an unclassified position within the state's merit system.		
	Salary of \$130,025.28 annually (as of March 31, 2007). Set by the board, approved by the State Personnel Department		
	Code of Alabama, 1975 § 36-26-10(c) (1)		
Location	445 Herron Street Montgomery, AL 36130-3605		

Examinations	Prepared an Vegas, NV.	Given in Montgomery, Birmingham, Mobile, and Huntsville. Prepared and graded by Psychology Services, Inc. of Las Vegas, NV. A minimum score of 54 items correct (67.5%) is required to pass the examination.							
	1 st Time								
	Pass								
	Fail								
	% Pass	48.5%	55.9%	61.7%	60.9%				
	Code of Alal Rule 465-X								
Renewals	Code of Alab 72.61% of th	bama, 1975	§34-14A-7						
Licensees	Inactive Building Off	Corporations/Partnerships 4,337							
Reciprocity	treat an applian unlicense consideration Administrati following lar "Any application builder issue shall be dee requirements"	There are no provisions in the board's enabling statutes that treat an applicant licensed outside Alabama differently from an unlicensed applicant. However, the board has given consideration to out-of-state licensees in the board's Administrative Code 465-X-304(6) by adopting the following language: "Any applicant holding a valid license as a residential home builder issued by a jurisdiction outside the State of Alabama shall be deemed to have satisfied the experience and ability requirements for licensure only upon a determination by the							
	subst (b) The from requi that j	antially simi other jurisdany examinates rements impurisdiction. port, the boar	lar to those of diction exer- ation (testing bosed on research has appro-	of Alabama; mpts Alabang experience sidential hor	risdiction are and ma licensees e and ability) nebuilders in we reciprocity				

Continuing Education	No statutory requirement.
Employees	2 unclassified merit system employees 17 classified merit system employees (one temporary) Total 19 (4 minority race employees)
Legal Council	1 Assistant Attorney General (Full-time employee) 1 Deputy Attorney General (Full-time employee) 1 Deputy Attorney General (Private Attorney - Contract)
Subpoena Power	None, except as authorized for hearings by Alabama Administrative Procedure Act in the <i>Code of Alabama</i> , 1975 § 41-22-12(c).
Internet Presence	http://www.hbla.alabama.gov On-line Services Privacy Statement Board Members and Executive Director Consumer Information Law Rules and Regulations Exemptions Search for Licensees Individual Licensees Corporations and Partnerships Disciplinary Actions How to Get Licensed Board Meeting Dates
Attended board Member Training	8 Board Members Executive Director Chief Legal Counsel

Financial

Source of Funds	Licensure fees, administrative fines, and recovery fund fees
State Treasury	Yes
Unused Funds	Operating Fund – over \$250,000 at fiscal year end is transferred to the Home Owner's Recovery Fund Code of Alabama, 1975 §34-14A-5(d) Home Owner's Recovery Fund – remains in the fund Code of Alabama, 1975 §34-14A-15 Property Acquisition Fund – remains in the fund Code of Alabama, 1975 §34-14A-18

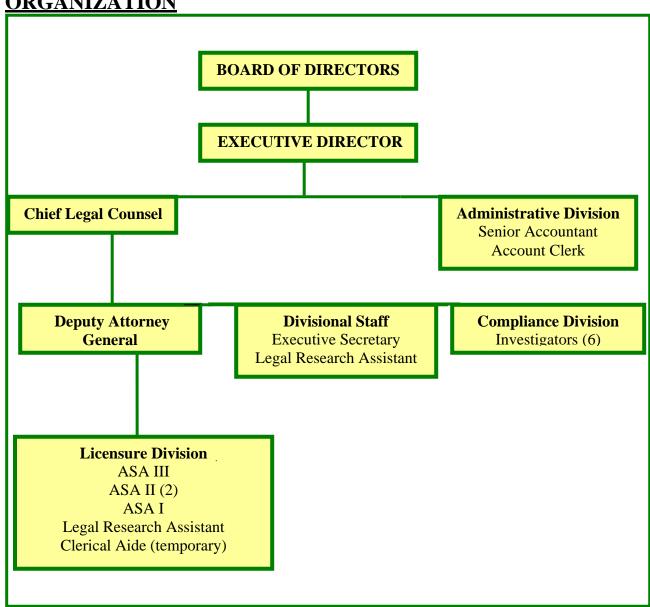
SIGNIFICANT ITEMS

- 1. Reconciliation of amounts recorded as received to amounts deposited was not done, thereby unnecessarily increasing the risk that state funds could be lost or misused without detection. Applications with accompanying fees were accepted at the front desk, either by mail or walk-ins, where a daily log was established. The log was not reconciled to deposits thereby increasing the risk that state funds could be lost or misused without detection.
- 2. Performance information reported to the Department of Finance for the state's SMART budget reports could not be substantiated. In reviewing the agency's 06-07 fiscal year performance goals and objectives, the board was unable to substantiate the data provided in the SMART quarterly performance report. Therefore, the data cannot be relied upon by users of the report.
- **4.** Four of the six board members responding to our questionnaire cited the need for a larger carryover of operating funds at year end. Statutes currently require the board to transfer balances in excess of \$250,000 in its operating fund into its recovery fund. \$250,000 is 10.7% of the board's operating disbursements for the 2007 fiscal year.

STATUS OF PRIOR FINDINGS

All prior findings have been resolved.

ORGANIZATION



The board also employs a private attorney under contract.

PERSONNEL

The board employs nineteen (19) persons, consisting of one executive director and one deputy attorney general, who are unclassified merit system employees; sixteen (16) classified merit system employees, and one temporary classified merit system employee. The executive director is appointed by the board.

Schedule of Employees As of April 15, 2008

Classification	Merit System Status	#	Race	Gender
Executive Director	Unclassified	1	White	Male
Attorney III	Classified	1	White	Female
Deputy Attorney General	Unclassified	1	White	Female
Executive Secretary	Classified	1	White	Female
Legal Research Assistant	Classified	1	Black	Female
Legal Research Assistant	Classified	1	White	Female
Investigators	Classified	6	White	Male
Senior Accountant	Classified	1	Black	Male
Account Clerk	Classified	1	White	Female
Administrative Services Assistant I	Classified	1	Black	Female
Administrative Services Assistant II	Classified	1	White	Female
Administrative Services Assistant II	Classified	1	Black	Female
Administrative Services Assistant III	Classified	1	White	Female
Clerical Aide (Temporary)	Classified	1	White	Female
Total		19	4(B) 15(W)	8 (M) 11(F)

In addition to the employees listed above, the board contracts for the services of a private attorney. The term of the current contract is July 16, 2007 through July 15, 2009. The contract amount is not to exceed \$60,000 in aggregate, not exceed \$30,000 per year at \$100 per hour plus reimbursable expenses allowed by state law.

PERFORMANCE CHARACTERISTICS

Number of Licensees per Employee - 550

Number of Persons per Licensee in Alabama and surrounding States

States	Population (Estimate) *	Number of Licensees	Persons per Licensee
Alabama	4,627,851	11,015**	420
Florida	18,251,243	42,237	432
Georgia	9,544,750	N/A***	
Mississippi	2,918,785	7614	383
Tennessee	6,156,719	9945	619

^{*} July 2007 US Census Bureau estimates

Operating Disbursements per Licensee (2007) - \$167

Notification to Licensees of Board Decisions to Amend Administrative Rules

The Home Builders Licensure Board follows the requirements for notification of changes to administrative rules in the Administrative Procedure Act. The board advertises rule changes in the *Administrative Monthly* and holds a public hearing. No further notice is provided to licensees on a routine basis.

Complaint Resolutions

Board rule 465-X-5-.03 provides the procedures for documentation, receipt, and investigation of complaints relating to board licensees and illegal practices.

Average number of days from receipt to resolution

	2004	2005	2006	2007
Consumer Complaints	136	123	122	120
Board Generated Complaints	116	181	206	120

Disposition of Consumer Complaints

Resolution	2004	2005	2006	2007	Total
Closed, no probable cause *	80	79	71	87	317
Probable cause-disciplinary action	64	82	86	84	316
Unlicensed builder-remanded to other authorities	31	41	42	23	137
Outside the jurisdiction of the board	63	23	48	23	162
Held in abeyance	0	1	0	0	1
Complaint withdrawn by homeowner	9	4	11	8	32
Still open	0	0	0	7	7
Opened in error	1	0	0	0	1
Total Complaints Received	248	235	258	232	973

^{*} To meet probable cause requirements, the licensee must have committed fraud or deceit in obtaining a license or committed gross negligence, incompetence, or misconduct in the practice of residential home building.

^{**} as of 3/10/08

^{***}Does not license residential builders

Disposition of Board-Generated Complaints

Resolution	2004	2005	2006	2007	Total by Category
Closed, no probable cause	1	3	2	7	13
Probable cause	5	8	4	23	40
No action taken (deceased)	1	0	0	0	1
Opened in error	2	0	0	0	2
Held in abeyance	1	0	0	0	1
Open	0	0	0	2	2
Total Complaints	10	11	6	32	59

Complaint Process

Complaints originate from the consumer or from the board. Complaints must be in writing and sworn to by the person making charges, as required by the *Code of Alabama* 1975, Section 34-14A-8. Anonymous complaints are not processed.

Initial Documentation	Upon receipt of the written complaint, both the complainant and the licensee are notified and given 20 days to resolve all differences without board intervention. If differences are not resolved, the complaint is assigned to an investigator based on the location of the residence in question.
Discovery	 The investigator interviews all parties involved in the complaint, reviews the records, and inspects the residence in question. At the conclusion of the investigation, a report is written and submitted to the Investigative Committee, consisting of the executive director, a board member, and the board's attorney.
Determination of Probable Cause	 The investigative committee reviews all investigative files and determines if probable cause exists for disciplinary action. To meet probable cause requirements, the licensee must have committed fraud or deceit in obtaining a license or committed gross negligence, incompetence, or misconduct in the practice of residential home building. NOTE: The board member participating on the investigative committee does not participate in disciplinary proceedings resulting from the investigation.

If no probable cause exists, the complaint is closed and all parties are notified. In addition, depending on the nature of the problem, information may be forwarded to other appropriate government authorities. If probable cause exists, the board initiates either informal settlement proceedings or formal hearings proceedings. The disciplinary options by law for the board in formal proceedings are suspension and revocation of license, the imposition of administrative fines, not to exceed \$2000 per violation (Section 34-14A-8(k)) and requiring the licensee to attend builder

Early Resolution

Procedure Act for contested cases.

education classes. The board may also enter into

settlement agreements, as allowed by the Administrative

If during the complaint process, the licensee and complainant resolve all differences and/or restitution is made, the complaint may be closed or the hearing procedure may be dismissed by the board. If no probable cause is determined and the case is closed, the complainant, upon submission of additional evidence, may request that the case be reopened. The complainant is notified by mail of the complaint's status.

SMART BUDGETING

As a part of our examination, we reviewed the board's performance goals and objectives, as presented in the board's SMART reports. We reviewed the following standards:

- Goals are long-term targets.
- Each goal presented in the Operations Plan must always be accompanied by one or more directly related objectives designed to show progress toward achieving the goal.
- Objectives are annual numerical target levels of performance. The target should be stated.
- The degree of achievement of the objectives should be reported as numerical data in the Performance Reports.
- Data reported anywhere in the SMART documents can be reproduced at any time from records on hand. The records should be available for audit.
- The methods for determining the data presented in the SMART documents should be recorded in writing so as to allow staff to complete the SMART documents over time in a consistent manner. The records of methods used should be available for audit.

We reviewed the board's SMART reports for the 2007 and 2008 fiscal years for compliance with these standards and present the following observations.

2007 Goal	Comments
G 1 – To protect the public from	No target level of performance. How can it
unqualified, incompetent, or dishonest	be known when the goal is achieved? Not
home building contractors and remodelers.	measurable.

2007 Objectives

		or Objectives		
Objective	Indicator	Projected	Actual	Comments
Efficiency Reduce costs associated with licensing activities through electronic licensing	(\$ in thousands)	30	31.18	No target level of performance stated. Otherwise, objective appears appropriate. Insufficient records on hand to substantiate reported actual performance.
Quality Increase the user rate for the electronic renewal process to reduce errors with renewal applications.	% of renewals	65	72.61	No target level of performance stated. Otherwise, objective appears appropriate. Insufficient records on hand to substantiate reported actual performance.

2008 Goal	Comments
G 1 – Increase the user rate for electronic	Needs a date for reaching the goal.
license renewal service to 77%.	Otherwise, appears appropriate.

2008 Objectives	Indicator	Target	Actual	Comments
Efficiency	\$	158	Yr not	Appears appropriate
Maintain costs per			ended	
licensee				
Quality	% of total	70	Yr not	Appears appropriate
Increase the user rate	renewals		ended	
for the electronic				
renewal process to				
reduce errors with				
renewal applications.				

REGULATION IN CONJUNCTION WITH OTHER ENTITIES

The jurisdiction of the Home Builders Licensure Board that of the Licensing board for General Contractors. Licensees of the Home Builders Licensure Board are limited to

residential building. General contractor licensees may perform both commercial and residential construction/building. General Contractors holding valid general contracting licenses prior to January 1992 are grandfathered under the Home Builders Licensure law. Subsequent to January 2002, licensed general contractors must also be licensed by the Home Builders Licensure Board to perform residential building.

FINANCIAL INFORMATION

The board operates through the State Treasury from three funds:

<u>Fund 719—Home Builders Licensure Board</u> – The fund, authorized by the <u>Code of Alabama 1975</u>, Section 34-14A-5(c), receives licensing fees, administrative fines and other operating fees and is used to pay for the operations of the board. The <u>Code of Alabama 1975</u>, Section 34-14A-5(d) requires that any balance in excess of \$250,000 in the fund at year-end must be transferred into the Home Builders Recovery Fund (720) or the Home Builders Property Acquisition Fund (1163) by January 15 of the following year.

<u>Fund 720 – Home Builders Recovery Fund</u> – The fund, authorized by the *Code of Alabama 1975*, Section 34-14A-15, receives a \$30 fee from each license issued or renewed. The fund also receives transfers from the Home Builders Operating Fund (719) of year-end balances that exceed \$250,000. The State Treasurer may invest the fund, and the interest realized on the investment is deposited into the fund.

The *Code of Alabama 1975*, Section 34-14A-15 and the board's Rule. 465-X-7 provide the procedure for making or denying payment from the Homeowners' Recovery Fund. This procedure is as follows:

When a homeowner files a civil complaint that may result in liability to the recovery fund, the homeowner must give the Home Builders Licensure Board notice in the form of a copy of the civil complaint, sent by certified mail. The board then files a limited entry of appearance in the case. When the court's judgment against the licensee is final, the homeowner files a verified claim against the fund in the trial court. The verified claim may be set for hearing. When the court is satisfied that the homeowner has met the requirements for payment, the court will order the fund to make payment to the homeowner in the amount it finds due, subject to the limitations and conditions imposed by the *Code of Alabama 1975*, Section 34-14A-15. The fund can pay out a maximum of \$20,000 per transaction, and a maximum of \$50,000 per licensee.

Fiscal Year	2004	2005	2006	2007
Collections				
from licensees	\$212,280.00	\$257,760.00	\$318,540.00	\$356,550.00

Fiscal Year	2004	2005	2006	2007
Total Claims				
Paid	\$280,751.66	\$205,376.00	\$254,462.50	\$436,084.10

Fund 1163 - Home Builders Property Acquisition Fund – The fund was created by Act **Acts of Alabama**, Act 2006-105 and is codified at the **Code of Alabama 1975**, Section 34-14A-18. The fund was created to accumulate funds to build offices for the board's operations. The fund received a appropriation authority to expend \$\$1,250,000 to purchase the board's office building located at 445 Herron Street, Montgomery, AL. On December 6, 2007, the board purchased the property from Larry Speaks for \$865,292.03 leaving a fund balance of \$384,707.97 (as of 12/31/07).

Schedule of Fees

The board provided for the following fees in its Administrative Rule 465-X-4-.04.

Description	Statutory Authority Code of Alabama 1975	Amount
Annual License Fee	34-14A-5	\$175
Annual Homeowner's Recovery Fund Fee(active licensees only) not to exceed \$60	34-14A-15	\$ 30
Application Processing Fee (non-refundable) for New Applications	34-14A-5	\$ 25
Applicants holding expired for licenses Less Than 3 Years Old	34-14A-5	\$295
Inactive Fee	34-14A-5	\$100
Request for Examination Records Fee	34-14A-7(a)(6)	\$ 15
Late Fee	34-14A-5	\$ 25
Fines		
Administrative fine for each violation not to exceed \$2,000	34-14A-8(k)	\$2,000

Operating Fund - Schedule of Receipts, Disbursements, and Balances Home Builders Licensure Board Operating Fund 719 For the Period October 1, 2003 through September 30, 2007

	2006-2007	2005-2006	2004-2005	2003-2004
Receipts				
Home Builders License	\$ 2,123,676.00	\$ 1,882,961.00	\$ 1,547,862.00	\$ 1,273,843.70
Applications	41,320.00	122,470.00	81,464.00	42,250.00
Miscellaneous Fees Not Otherwise Classified	2,816.00	1,455.00	1,732.20	1,853.00
Fees and Fines Not Otherwise Classified	68,540.00	51,820.00	48,875.00	51,665.00
Professional Occupation Penalty	110,000.00	40,050.00	83,250.00	50,900.00
Insurance Recoveries	· -	11,957.11	,	•
Prior Year Refund		·	20.00	186.87
Salvage Equipment Sales	7,119.63	3,842.31		2,032.33
Total	2,353,471.63	2,114,555.42	1,763,203.20	1,422,730.90
<u>Disbursements</u>				
Personnel	953,839.77	863,162.99	747,621.00	684,472.29
Employee Benefits	297,020.70	261,392.83	233,090.00	182,141.49
Travel In-State	45,897.87	45,841.47	34,708.07	29,429.35
Travel Out-of-State	14,896.28	6,263.74	2,487.54	7,704.33
Repairs and Maintenance	8,994.36	294.58	1,298.02	439.40
Rentals and Leases	116,178.09	80,767.85	71,248.83	68,840.00
Utilities and Communication	73,692.10	67,342.37	55,182.86	56,917.17
Professional Services	77,971.17	65,731.06	58,323.39	89,980.57
Supplies, Materials and Operating Expenses	82,638.00	80,124.88	72,159.52	56,228.86
Transportation Equipment Operations	36,829.84	44,664.01	22,829.10	25,593.77
Transportation Equipment Purchases	42,966.00	51,638.72	43,691.50	45,814.00
Other Equipment Purchased	84,316.41	4,213.78	29,559.23	15,760.77
Capital Outlay	7,061.88	-		
Transfer to Home Builders Recovery Fund	483,388.32	378,918.47	151,529.61	118,333.10
Total	2,325,690.79	1,950,356.75	1,523,728.67	1,381,655.10
Excess of Receipts over Disbursements	27,780.84	164,198.67	239,474.53	41,075.80
Cash Balance at Beginning of Year	867,367.12	703,168.45	463,693.92	422,618.12
Cash Balance at End of Year	895,147.96	867,367.12	703,168.45	463,693.92
Reserved for Transfer to Recovery Fund	(505,881.95)	(415,952.69)	(309,604.07)	(80,497.86)
Reserved for Unpaid Obligations	(139,266.01)	(201,414.43)	(143,564.38)	(133,196.06)
Unreserved Cash Balance at End of Year	\$ 250,000.00	\$ 250,000.00	\$ 250,000.00	\$ 250,000.00

Operating Fund - Receipts Vs Operating Disbursements (Chart)

Home Builders Licensure Board Operating Fund 719 For the Period October 1, 2003 through September 30, 2007



Note - Disbursements do not include transfers to Recovery Fund

Recovery Fund - Schedule of Receipts, Disbursements, and Balances Recovery Fund 720 For the Period October 1, 2003 through September 30, 2007

		2007	2006	2005	2004
Receipts					
Home Builders License	\$	356,550.00	\$ 318,540.00	\$ 257,760.00	\$ 212,280.00
Interest Income		96,025.35	61,469.69	23,694.04	6,982.06
Prior Year Refund		-	5,975.98	36,500.00	7,000.00
Transfer from Fund 719		483,388.32	378,918.47	151,529.61	118,333.10
Total		935,963.67	764,904.14	469,483.65	344,595.16
<u>Disbursements</u>					
Grants and Benefits		436,084.10	254,462.50	205,376.00	280,751.66
Excess of Receipts Over Disbursements		499,879.57	510,441.64	264,107.65	63,843.50
Cash Balance at Beginning of Year		1,477,950.76	967,509.12	703,401.47	639,557.97
Cash Balance at End of Year	1	1,977,830.33	1,477,950.76	967,509.12	703,401.47
Reserved for Unpaid Obligations		(73,915.00)	(220,000.00)	(250,000.00)	(154,376.00)
Unreserved Cash Balance at End of Year	\$ 1	1,903,915.33	\$ 1,257,950.76	\$ 717,509.12	\$ 549,025.47

Recovery Fund - Receipts Vs Disbursements (Chart)

Home Builders Licensure Board Recovery Fund 720 For the Period October 1, 2003 through September 1, 2007



NOTE - Recovery Fund disbursements do not contain operating expenses, which are presented in Fund 719.

OUESTIONNAIRES

Board Member Questionnaire

Questionnaires were sent to all nine board members. Six responded.

- 1. What are the most significant issues currently facing the Home Builders Licensure Board and how is the board addressing these issues?
- *R1*. "When we issue a warrant and the judge only fines the individual \$200, it weakens the Home Builders' Law. We are trying to educate these judges to fine much more and give longer sentences."
- *R2*. "Refine investigating procedure for unlicensed builders. Increase fining authority for unlicensed builders."
- R3. "A. Need authority for a larger budget carry over.
 - B. Need to consider lowering license cost whenever feasible."
- R4. "A. We need a larger carryover of excess funds.
 - B. Unlicensed builders"
- R5. "Our \$250,000 annual carryover is less than 2 months operating costs. It should be gradually increased to \$650,000 to \$750,000 for a 5 or 6 month reserve."
- *R6.* "More and better tools to prosecute unlicensed builders."

2. What changes to the Home Builders Licensure Board's laws are needed?

- R1. "For HBL to be involved, must be a written contract and specs printed out, as well as copy of blue prints. Have all counties adopt International Building Code."
- R2. "Increase end of carryover (fund at end of year maximum is currently \$250,000"
- *R3*. "A. More investigative power for unlicensed builders.
 - B. Authority for larger fines for unlicensed builders.
 - C. State Building Code"
- R4. "We need authority of a larger fine for unlicensed builders"
- *R5*. "Changes that would allow greater fines or additional punishment for convicted unlicensed builders. Our board is 16 years old and no exams for repeat violations."
- R6. "Stronger laws"

3.	Is the	Home Bu	uilders Licensure B	oard adequately funded?	
	6	_ Yes	No	Unknown	No Opinion
4.	Is the	Home Bı	uilders Licensure Bo	oard adequately staffed?	
	6	_ Yes	No	Unknown	No Opinion
5.	What	is the pu	rpose of your fiscal	year end balance of unobli	gated funds?
		_	time, if many Builde ble. Could easily dis	ers go under, the claims again sipate."	nst Refund could
R2.	"Hom	ne Owner	s Recovery Fund"		
R3.	"Hom	ne Owner	s Recovery Fund"		
R4.	"Hom	ne Owner	s Recovery Fund"		
R5.	"They	are depo	osited into the Recov	ery Fund."	
R6	"Hom	ne Owner	s Retention Fund"		

Licensee Questionnaire

Questionnaires were sent to 179 Home Builder Licensure board Licensees.

Questionnaires were divided into the following categories:

	Sent	Received (%)
Individuals	59	25 (42%)
Corporations	39	19 (49%)
Partnerships	2	0 (0%)
Building Officials	79	47 (59%)
Total	179	91 (51%)

1. Do you think regulation of your profession by the Home Builders Licensure Board is necessary to protect public welfare?

	Yes	No	Unknown	No Opinion	Blank
Individuals	21	1	2	1	
Corporations	17	1		1	
Partnerships					
Building					
Officials	31	13		2	1
Total	69	15	2	4	1

Building Official respondents:

R2. "I think it should be regulated but not by home builders. I feel better with the engineers or architect's board."

R28. "Didn't come soon enough"

R43. "Certification, Regulation, and/or Licensing of any party responsible for the Builders visonment (illegible) contributes to the protection of the public welfare."

2. Do you think any of the Home Builders Licensure Board's laws, rules, and policies are an unnecessary restriction on the practice of your profession?

	Yes	No	Unknown	No Opinion	Blank
Individuals	3	20	1	1	
Corporations	1	17		1	
Partnerships					
Building					
Officials	9	36	1	1	
Total	13	73	2	3	

Licensee respondents:

R2. "You should not be able to hold a license in the name of a company or Corp., only Individuals but you should be able to pull permits in the name of a company or corp. if the person pulling the permit is holding a license."

3. Do you think any of the Home Builders Licensure Board's requirements are irrelevant to the competent practice of your profession?

	Yes	No	Unknown	No Opinion	Blank
Individuals	3	17	4	1	
Corporations	1	16		2	
Partnerships					
Building					
Officials	9	33	2	3	
Total	13	66	6	6	

4. Are you adequately informed by the Home Builders Licensure Board of changes to and interpretations of board positions, policies, rules and laws?

	Yes	No	Unknown	No Opinion	Blank
Individuals	16	5	2	2	
Corporations	15	2	1	1	
Partnerships					
Building					
Officials	35	9	1	2	
Total	66	16	4	5	

5. Do you utilize the Home Builders Licensure Board's online renewal system?

	Yes	No
Individuals	19	6
Corporations	15	4
Partnerships		
Building Officials	33	14
Total	67	24

Building Official respondents:

- R18. "Cause we must show provenience."
- R27. "I still have to send in additional information by mail so using the internet for part of the process is useless. I would like to be able to complete the process on line."
- *R30.* "Can't, Building Officials have to send in copy of ICC certifications every year. Why can't they keep a copy on file?"

If yes, are you satisfied with the process?

	Yes	No	Blank
Individuals	18	1	
Corporations	15		
Partnerships			
Building Officials	29	3	1
Total	62	4	1

If not satisfied, what problems have you experienced?

Licensee respondents:

R11. "Paying for a credit check should not be necessary every year."

Building Official respondents:

R6. "We have to send certifications and the paper applications each year, so what good does it do to use the online service."

R14. "As a Building Inspector, I have additional material that has to be added to my renewal."

R27. "See Above"

R30. "See Above Note"

R31. "I can renew on line but still have to mail in certifications and proof of employment."

R32. "I still have to mail certifications and proof of employment."

6. Has the Home Builders Licensure Board performed your licensing and renewal in a timely manner?

	Yes	No	Unknown	No Opinion	Blank
Individuals	23	2			
Corporations	19				
Partnerships					
Building Officials	44	1		2	
Total	86	3		2	

7. What do you think is the most significant issue(s) currently facing your profession in Alabama and what is the Home Builders Licensure Board doing to address the issue(s)?

Individual respondents:

12 were left blank or had no opinion

R1. "THE DOWN MARKET AND ECONOMY"

R2. "The most significant issue is not requiring the insurance industries to perform a home inspection and then requiring the insurance industry to rate a home premium based on the QUALITY of CONSTRUCTION. If you would require this then the Quality of Construction would increase and if the insurance industry is honest, good Quality homes should go down in Premium, making all home owners increase quality of construction. This should help along our coastal area"

R4. "Unlicensed builders"

R5. "The board is trying to add more and more regulations to strengthen the Power Base"

R6. "Unlicensed contractors!!"

R11. "Uneven enforcement of building codes"

R12. "Economy"

R13. "Board does not issue disciplinary actions for poor/substandard workmanship delivered to the public. The only actions I know of are working without a licensure. It doesn't seem to matter what kind of work you do, as long as you have license."

R14. "Non-licensed Builders. More (checks)"

R15. "No issues. N/A"

- R19. "Non Licensed Builders"
- R20. "Unlicensed Builders that continue to build."
- R22. "Economy"

Corporation respondents:

8 were left blank

- R1. "Enforcing that all Home Builders pay Workmens Comp Insurance."
- *R3.* "Compliance of non-licensed Home Building in Geneva County, AL. I know of nothing the state is doing for prevention of non compliance in Geneva County.!!"
- *R4*. "Unlicensed Builders and uninsured builders (General Liability) make it harder for us to run a legitimate company. Also, builders who do not handle warranty work destroy our reputation."
- *R5*. "The Economic Turn Down (Recession?) and the Large inventory of completed unsold New Homes. Not an issue HBLB can address."
- R7. "Litigation—suits by buyers even 6-7 yrs after purchase. A statewide warranty prepared by and endorsed by the state might help."
- R9. "Code Changes. Unlicensed Builders"
- R10. "Watch the news everyday"
- R13. "People without enough experience and capital"
- *R15.* "Too many people got their license by going to a county that was giving out a license to <u>ANYBODY</u> that could pay their fee on the same day they applied. Also, I don't think a private owner should be able to build or sub out their work without a license. <u>NO ONE</u> inside a city is allowed to do their own electrical, plumbing or HVAC without a license. However, the same person is allowed to completely construct any private owned project, even if they have <u>NO</u> experience."
- *R17*. "<u>Subcontractors</u> More regulations geared towards policing subcontractors. Perhaps mandating all subcontractors be licensed through HBLB."
- R18. "Fire sprinkler system and State Wide Building Code"

Partnerships respondents:

None

Building Official respondents:

- 14 were left blank or had no comment
- R1. "I believe there is a real problem with home builders in un-policed (counties) of the state where inspections are not made."
- R2. "It is my opinion the state should require mandatory registration for Building Official as they do for Engineers and Architects. Building Officials are overlooked by the State of Alabama."
- R4. "Continuing operation of unlicensed and incompetent builders."
- R5. "It appears to me the H.B.L.B. would like to limit the local jurisdiction's authority."
- *R6.* "We try to help find unlicensed builders in hopes of preventing home owners from getting ripped off, but it still happens."
- R7. "State building code is needed to help in overall enforcement."
- R11. "Unlicensed Contractors"
- R12. "I do not know of any issues facing my profession."
- *R14*. "Controlling unlicensed Builder/Remodeler doing sub-standard construction work.--Continue to check out Builder for correct license and inspections"
- *R15*. "Unlicensed contractors performing substandard work. The AHBLB does prosecute those that are caught."
- R17. "Don't have a minimum for License. Everyone needs to be Licensed."
- R18. "The state should have a State wide Building Code. (Nothing at this time it seems)."
- *R20*. "It presently appears various residential contractors and remodelers are having the homeowner obtain the permits for work that exceeds a valuation of \$10,000.00. Some of these projects range over \$100,000.00. (Answer address the issues---See # 8)"
- *R21* "To many unlicensed "Brief Case Contractors," unlicensed people Building Junk, in competition with experienced licensed Bldrs? What is being done to enforce the law?"
- *R22*. "Unlicensed Builder. Tougher Laws and Penalties, more staff to prosecute offenders."

- *R23* "House Bill 121 establishing a State Building Code Commission. Do Not Know HBLB's position."
- *R26.* "Foreclosed homes and builders having to bankrupt."
- R27. "Not enough is being done to stop unlicensed builders. When caught they seem to get a Slap on the Wrist at best. The number of people thumbing their nose at the state is unreal."
- *R28.* "I don't believe that you have enough people in the field to perform spot checks for proper licenses. There are still plenty of contractors performing work that do not have a license."
- R30. "Create a state wide building code."
- R31. "The Builders Knowledge of Current Codes. Possible CEU's should be required."
- *R32*. "Contractors that perform work and do jobs that are under the threshold of dollar amounts required for licensure. They break the contracts down into smaller increments and use multiple contracts."
- *R34*. "Incompetent builders. Holding a license from the board does not make someone a good builder. The board is trying to address this through testing, but this does not weed out all of those that should not be building."
- *R36.* "Lack of good dependable builders! We need a harder test for the building license."
- R37. "Home owners hiring unlicensed contractors. Not enough enforcement."
- R38. "Unlicensed Builders. They are policing the state the best that they can."
- R39. "Crafts and Sub-crafts not being taught the ways to meet code its left up to inspector and an inspector needs to be on the board."
- *R40*. "Unlicensed contractors and contractors who are not qualified to work in high wind regions of Baldwin County."
- *R42*. "City and county jurisdictions with no Building Dept. or inspection process. Nothing I am aware of to correct this problem."
- *R43*. "One of the most significant issues is the training (or lack of) and education of the Builders especially Building <u>Code</u> training. I am not aware that the Home Builders Licensure Board sponsors or co-sponsors seminar training for builders."

R44. "Need more inspectors"

R45. "Inferior Licensed Builder. I believe there should be other requirements than just a written test. I would like to see some type of continuing educations (CEUs) for your license."

R46. "Undocumented Labor"

8. Do you think the Home Builders Licensure Board and its staff are satisfactorily performing their duties?

	Yes	No	Unknown	No Opinion	Blank
Individuals	18	1	4	2	
Corporations	14	3	1		1
Partnerships					
Building Officials	32	4	7	2	2
Total	64	8	12	4	3

Building Official respondents:

R4. "NEED STRONGER ENFORCEMENT/LEGAL RESPONSE AND INCREASED STAFFING."

R21. "I do not know if you have adequate enforcement staff, if so, more field enforcement is needed."

R27. "Yes, otherwise (arrow points to question # 7)"

R34. "They are always very responsive to calls from us. Have been great to work with."

R35. "Not enough compliance officers. Not going after rule breakers hard enough."

9. Has any member of the Home Builders Licensure Board or its staff asked for money (other than normal fees), services, or any other thing of value in return for performing a board service for you?

	Yes	No	Unknown	No Opinion	Blank
Individuals		25			
Corporations		19			
Partnerships					
Building Officials		45			2
Total		89			2

Complainant Questionnaire

One hundred complaint questionnaires were mailed out. Fifty-three responded.

1. Was your complaint filed with the Home Builders Licensure Board by:
41 U.S. Mail 5 Phone Fax 4 Other 3 Unknown
R23. "My attorney"
R24. "Certified"
R25. "My attorney Contacted the board."
<i>R45</i> . "Please use my name. Anyone who is not trying to intimidate me is welcome to contact me."
2. Was receipt of your complaint acknowledged?
If yes, approximately how long after you filed your complaint were you contacted by the Home Builders Licensure Board?
6 Immediately 14 Within 10 days 9 Within 20 days
12 Within 30 days6 More than 30 days4 Unknown
Left blank
R15. "Can't remember exactly—but I believe I am fairly accurate."
<i>R45</i> . "I have documentation I will gladly provide. The office staff was kind, courteous, and efficient. I began contacting them June 12, 2006-2007. I feel strongly they should certainly revisit my complaint seriously."
3. Was the employee who responded to your complaint knowledgeable and courteous?
6 Knowledgeable9 Courteous5 Neither30 Both
3 Left blank
R25. "Very thorough and efficient"

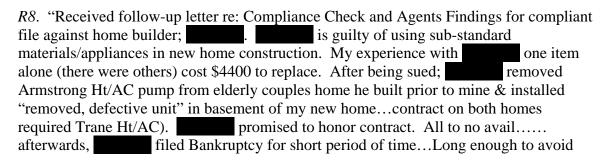
<i>R45</i> . "The office staff was: knowledgeable and courteous. The inspector who visited me was not rude, but disinterested. I would like to send a written response."
<i>R46</i> . "Employee fairly courteous—but not knowledgeable or diligent on getting back with me (at all) about my complaint."
4. Did the Home Builders Licensure Board communicate the results of investigating your complaint to you?
<u>36</u> Yes <u>13</u> No <u>3</u> Unknown <u>1</u> Left blank
R11. "Did not hear another word from the board after my hearing."
R25. "I was notified of a meeting in Montgomery at the Licensure board."
R33. "Verbal communication only. Did not receive any written report or written correspondence."
<i>R45</i> . "They sent a form letter and explained nothing. I didn't get the first letter they claimed to have sent, but immediately sent another one with findings against me."
5. Do you think the Home Builders Licensure Board did everything it could to resolve your complaint?
R33. "My complaint on"—does not remove the Mechanics Lien that was filed on my residence. I did not receive anything in writing from Home Builders Licensure Board that I could use to remove the Mechanics Lien that filed on my residence. If I received a written acknowledgement of the complaint and findings, then I could use this information, as a basis to pursue the removal of the Mechanics Lien and bring closure to this complaint, as an Alabama consumer and homeowner."
<i>R45</i> . "There is no excuse for what happened. In my opinion, they ignored all the evidence I presented in the complaint."
6. Were you satisfied with your dealings with the Home Builders Licensure Board?
33 were left blank or no opinion
R1. "That man () have destroyed people dream, because only thing you do is give him his license back."

R4. "My attorney () filed suit for me. We appeared before arbitrator
Mr. was told to go back to my house and evaluate what he would have to do to
correct his shoddy workmanship. He did and then filed bankruptcy before a court date
could be set and judgment rendered. My lawyer has contract and photos of work, Mr.
did. Please contact him."

R5. "The only complaint I had was on several occasions when I called I got an answering machine to leave messages and my messages never got any return answers from anyone. I gave specifics to call me on my home phone when they needed to converse with me but instead they'd call me on my cell phone continuously and in most cases when I got a call from them I would be in an area with a bad cell and could not understand their messages therefore I was accused of not responding back to them which was not true. This started a lack of communication. Then on a couple of occasions, I talked with a secretary/receptionist and left messages with her and never heard anything from the person I left the message for. Other than that, I think the licensure board is TOP NOTCH."

R6. "I filed my complaint on May 1, 2007. I received a letter confirming that it had been received by the HBLB. After that I waited and finally kept calling until they sent out an inspector to inspect and investigate my situation. He came out on June 22, 2007 and saw what a mess I had gotten myself into with this unlicensed builder/contractor. When he left he told me it could take a while for me to hear back from them. Today is Feb. 4, 2008, I still haven't heard a word from them.

It appears to me that there are no laws or organizations that can protect victims like me from fraudulent contractors. No one seems to want to help me recover any of my losses. So this man never has to pay for the wrong he done and he took \$16,000 dollars of my money (my kid's college fund) caused me lots of stress and heartache and now I have to face the IRS with the rest of my worries, paying taxes on the IRA account that I had to close to fix my house. I thought there were laws in this state to protect us, but so far no one want to help. I can't even get an attorney to take my case, cause the guy wasn't insured....if he had been insured every attorney in the state would have went after him. The State Attorney General's office is just waiting to see if they hear back from this guy. I guess you can probably tell that I am very frustrated with the State and all the organizations that were supposed to protect me and my family. Most of all I am upset with myself for not taking precautions to prevent this mess from happening. I have a clear cut case to sue and win, but no money to pursue it, because this scum screwed me out of it. Any suggestions?"



Complainant Questionnaire

paying customers. Other customers have related their experiences with (quality of materials so bad in one instance customer had to sue to get deposit back). Needless to say, I was disappointed in your agents findingsI don't understand what constitutes substandard building ethics. It is my understanding that has returned to building new homes Where is the Justice?"
R9. "The man that came out the last time said the only way to solve the problem was to put the laundry room on a small septic tank in back yard. P.S. Was doing laundry today and the stool backed up."
R10. "I would be more than happy to discuss my answers with you."
R19. "Total waste of Time"
R25. "Not sure about results from the hearing I attended, if any suit was filed against."
R28. "Not because of rep but because there was nothing done after."
R30. "I feel the compliant regarding the Builder still exists regarding this commentary."
R31. "I do not feel like the board did everything possible to resolve this problem. My wife and I had to hire a lawyer to get the problem resolved even after hiring a lawyer my wife and I were out several thousand dollars. This being a new house we purchased in 2002, I feel like the state should have been able to pursue this problem and possibly got this resolved with the builder. This problem started about 6 months after we purchased the house and re- appeared every 6 months after attempts to correct. The State Wastewater board was also contacted but I also received no help from them."
R33. "I expected written results /findings on this complaint."
<i>R45</i> . "The actions should be examined and investigated." 2 page letter attached with police report."
R46. "Partially! not fully"
R47. 2 page letter attached

R50. "Professional, Excellent Service, and Follow up by

APPENDICES

Smart Budget Reports

Smart Quarterly Performance Report

Fiscal Year: 2007

Agency: 357 Home Builders Licensure Board

Program: 653 PRO AND OCCU LICENSING AND REG

Activity:

Performance Measures		First Quarter		Second Quarter		Third Quarter		Fourth Quarter		Annual	
Workload/Cost Factor	Performanc e Indicator	Projecte d	Actu al	Projecte d	Actual	Projecte d	Actual	Projected	Actu al	Projecte d	Actual
WC1: Number of license fees received will increase by 3%.	(# in thousands)	8.4	9.08	2.0	2.39	0.5	0.32	o.1	o.18	11.0	11.97
Spending	Performanc e Indicator	Projecte d	Actu al	Projecte d	Actual	Projecte d	Actual	Projected	Actu al	Projecte d	Actual
SP1: Increase operational costs by no more than 10%.	(# in millions)	0.808	0.425	0.553	0.509	0.51	0.606	0.44	0.544	2.31	2.084
Staffing	Performanc e Indicator	Projecte d	Actu al	Projecte d	Actual	Projecte d	Actual	Projected	Actu al	Projecte d	Actual
ST1: Increase compliance and administrative staff.	(No. of FTE staff)	20	18	20	18	20	18	20	18	20	18
Efficiency	Performanc e Indicator	Projecte d	Actu al	Projecte d	Actual	Projecte d	Actual	Projected	Actu al	Projecte d	Actual
EF1: Reduce costs associated with licensing activities through electronic licensing.	(\$ in thousands)	22.5	27.9	2.5	1.36	2.5	1.04	2.5	0.88	30	31.18
Quality	Performanc e Indicator	Projecte d	Actu al	Projecte d	Actual	Projecte d	Actual	Projected	Actu al	Projecte d	Actual
QU1: Increase the user rate for the electronic renewals process to reduce errors with renewal applications.	(% of renewals)	60	72.8	5	0.003	0	0.003	0	0	65	72.61

How have policy decisions and budget determinations made by the governor and the legislature in the fiscal year 2006-07 affected your agency in meeting its desired accomplishments and services?

The agency began its fifteenth operational year in 2006-2007. Due to previous difficulties in starting a new agency, we considered the 2006-2007 year to be our thirteenth full operational year. Therefore, we have established a realistic picture of our administrative operation. The agency had a successful year due to the Governor and Legislature.

What administrative improvements did your agency make in fiscal year 2006-07 and what potential improvements do you foresee for future years? Include suggested changes in legislation or administrative procedures which would aid your agency in these improvements.

Our permanent staff leveled at 18 full-time employees in fiscal year 2006-2007. The agency is organized into three divisions—administrative, licensure, and consumer affairs. Due to shifting an attorney to chief of the licensure division, our overall performance has increased. The agency continues to operate as state-of-art agency, utilizing the latest technology and methods in our work.

State of Alabama EBO Form 4B

2007 Smart Operations Plan

Agency/ Org	357 - Home Builders Licensure Board
Organization	-
Program	653 - PRO AND OCCU LICENSING AND REG
Activity	-

Mission	To provide consumer protection by safe guarding the public's health, safety, and welfare through the regulation of the residential construction and remodeling industries while promoting industry professionalism and home building and remodeling standards in accordance with Title 34, Chapter 14A of the Code of Ala. 1975 (Governor's priority # 1).
Vision	
Values	
Goals	G1: To protect the public from unqualified, incompetent, or dishonest home building contractors and remodelers. (GP-1)

Critical Issues

Internal IC11: Acquire additional office space for board's Staff. (G1)

External ECI1: Eliminate county population and general contraction exemptions. (G1)

Strategies

- 1). 1. Acquire new office space for board's staff. (G1)
- 2). 2. Provide additional electronic services to licensing applicants. (G1)

Workloads	Performance Indicator							
Number of licens	(# in thous	ands)						
FY 07 Projected	l: 8.94 FY 07	Target: 1	1.0				L	
FY07 Quarterly Projections:	1st Qtr:	8.4	2nd Qtr:	2.0	3 rd Qtr:	.5	4th Qtr:	.1
Number of technical exams will remain unchanged								
FY 07 Projected	l: 469 FY 07 T	Target: 37	5					
FY07 Quarterly Projections:	1st Qtr:	107	2nd Qtr:	95	3 rd Qtr:	114	4th Qtr:	59

Objectives		Performance Indicator
Spending	Increase operational costs by no more than 10%	(\$ in millions)

FY 07 Projected:	2.31 FY 07 T	Target: 2.31						
FY07 Quarterly Projections:	1st Qtr:	.808	2nd Qtr:	.553	3 rd Qtr:	.51	4th Qtr:	.10
Staffing	Increase con	(No. of FTE staff)						
FY 07 Projected:	20 FY 07 Ta	rget: 20						
FY07 Quarterly Projections:	1st Qtr:	20	2nd Qtr:	20	3 rd Qtr:	20	4th Qtr:	20
Efficiency	Reduce cos	(\$ in thous	sands)					
FY 07 Projected:	30 FY 07 Ta	rget: 30						
FY07 Quarterly Projections:	1st Qtr:	22.5	2nd Qtr:	2.5	3 rd Qtr:	2.5	4th Qtr:	2.5
Quality	Increase the with renewa	(% of renewals)						
FY 07 Projected:	65 FY 07 Ta	rget: 65						
FY07 Quarterly Projections:	1st Qtr:	60	2nd Qtr:	5	3 rd Qtr:	0	4th Qtr:	0

Source of Funds										
Fund Code	Fund Name	Requested FY 07	Budgeted FY 07							
0719	Home Builders Licensure Board	\$1,861,987	\$1,861,987							
0720	Home Builders Licensure Board Recovery Fund	\$450,000	\$450,000							
	Total of all Funds Listed Above:	\$2,311,987	\$2,311,987							

2008 SMART Performance Report

357 - Home Builders Licensure Board					653	- PRO AND	OCCU LIC	ENSING AN	NSING AND REG					
-				Activity:	-									
												1975		
res and Quarterly Project	ions													
	First Q	uarter		Second Qua	ırter	Third Qu	arter	Fourth	Quarter	Annual				
re	Project	ed A	ctual	Projected	Actual	Projected	d Actual	Project	ed Actual	Projecte	d Ac	tual *		
W1: Number of licensees 9000		9	178	2000	0	350	0	320	0	11670	0			
W2: Number of consumer complaints 53		4	7	53	0	50	0	50	0	206	0			
data is not currently availal	ble for this qua	arter.	<u> </u>			1			l		<u> </u>			
me Builders Licensure B	oard			Program:	553 - PRO A	ND OCCU	LICENSING	AND REG						
				Activity: -										
ease the user rate for elec	tronic licens	e renewal s	service to	77%					Gove	rnor's Priori	ty:	4		
Quarterly Targets:														
asures		First Qua	arter	Second	Quarter	Third Qu	arter	Fourth Qu	uarter	Annual				
	Unit of Measure	Target	Actual	Target	Actual *	Target	Actual *	Target	Actual *	Target	Actual '	*		
aintain costs per licensee.	\$	158	78	158	0	158	0	158	0	158	0			
L electronic renewals process to reduce L		70	76	5	0	1	0	1	0	77	0			
	industries while promotin (Governor's priority #1). Ires and Quarterly Project Ires ensees Insumer complaints Idata is not currently available Insumer Builders Licensure Builders	industries while promoting industry prof (Governor's priority #1). Ires and Quarterly Projections First Quarterly Projections Project Gensees 9000 Insumer complaints 53 Indata is not currently available for this quarterly available for this quarterly Targets: Buarterly Targets:	industries while promoting industry professionalism (Governor's priority #1). Ires and Quarterly Projections First Quarter Projected A Gensees 9000 99 Insumer complaints 53 49 Idata is not currently available for this quarter. In the projected A Idata is not currently available for this quarter. In the projected A Idata is not currently available for this quarter. In the projected A Idata is not currently available for this quarter. In the projected A Idata is not currently available for this quarter. 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Insumer Builders Licensure Board Projected Actual Insumer complaints First Quarter Insumer Complaints First Quarter Unit of Measure Insumer Complaints Actual Insumer Complaints First Quarter Insumer Complaints Firs	To provide consumer protection by safeguarding the public's health, safety industries while promoting industry professionalism and home building and (Governor's priority #1). Irres and Quarterly Projections First Quarter Projected Projected Actual Projected Actual Projected Actual Projected Actual Projected Actual Projected Actual Projected Activity: - Diameter Second Actual Actual Target Measure Actual Actual Target Measure Actual Actual Target Actual Ac	To provide consumer protection by safeguarding the public's health, safety, and welfar industries while promoting industry professionalism and home building and remodeling (Governor's priority #1). Ires and Quarterly Projections First Quarter Projected Actual Projected Actual Projected Actual Sensees 9000 9178 2000 0 Insumer complaints 53 47 53 0 Indata is not currently available for this quarter. In the projected Actual Projected Actual Actual Sense Second Quarter In the projected Actual Projected Actual Projected Actual Sense Second Quarter Second Quarter Second Quarter Sense S	To provide consumer protection by safeguarding the public's health, safety, and welfare through it industries while promoting industry professionalism and home building and remodeling standards (Governor's priority #1). 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Statutory Authority

CHAPTER 14A. HOME BUILDING AND HOME IMPROVEMENT INDUSTRIES.

§ 34-14A-1. Legislative intent.

Current through End of 2007 Regular Session.

In the interest of the public health, safety, welfare, and consumer protection and to regulate the home building and private dwelling construction industry, the purpose of this chapter, and the intent of the Legislature in passing it, is to provide for the licensure of those persons who engage in home building and private dwelling construction, including remodeling, and to provide home building standards in the State of Alabama. The Legislature recognizes that the home building and home improvement construction industries are significant industries. Home builders may pose significant harm to the public when unqualified, incompetent, or dishonest home building contractors and remodelers provide inadequate, unsafe or inferior building services. The Legislature finds it necessary to regulate the residential home building and remodeling construction industries.

(Acts 1992, No. 92-608, p. 1282, § 1.)

§ 34-14A-2. Definitions.

Current through End of 2007 Regular Session.

As used in this chapter, the following terms shall have the following meanings, respectively, unless the context clearly indicates otherwise:

- (1) board. The Home Builders Licensure Board.
- (2) Contracting. Except as exempted herein, engaging in residential and private residence construction business as a contractor.
- (3) Home Builders Licensure Board. The board created herein to regulate the home building and residential construction industry.
- (4) Homeowner. One who owns and resides or intends to reside in a structure constructed or remodeled by a licensee of the board, or who contracts with a licensee for the purchase, construction, repair, improvement, or reimprovement of a structure to be used as a residence.
- (5) Inactive license. A license issued at the request of a licensee, or a building official or a building inspector, which is renewable, but which is not currently valid.
- (6) License. A new license or a renewal license issued by the board pursuant to this chapter.
- (7) Licensee. A holder of a certificate issued pursuant to this chapter.
- (8) Person. Any natural person, limited or general partnership, corporation, association, limited liability company, or other legal entity, or any combination thereof.

- (9) Residence. A single unit providing complete independent residential living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.
- (10) Residential home builder. One who constructs a residence or structure for sale or who, for a fixed price, commission, fee, or wage, undertakes or offers to undertake the construction or superintending of the construction, or who manages, supervises, assists, or provides consultation to a homeowner regarding the construction or superintending of the construction, of any residence or structure which is not over three floors in height and which does not have more than four units in an apartment complex, or the repair, improvement, or reimprovement thereof, to be used by another as a residence when the cost of the undertaking exceeds ten thousand dollars (\$10,000). Nothing herein shall prevent any person from performing these acts on his or her own residence or on his or her other real estate holdings. Anyone who engages or offers to engage in such undertaking in this state shall be deemed to have engaged in the business of residential home building.
- (11) Structure. A residence, including a site-built home, a condominium, a duplex or multi-unit residential building consisting of not more than four residential units.
- (12) Transaction. The act of entering into a contract with a licensee for the purchase, construction, repair, improvement, or reimprovement of a structure to be used as a residence.

(Acts 1992, No. 92-608, p. 1282, § 2; Acts 1997, No. 97-250, p. 457, § 3; Act 2002-72, p. 163, § 1; Act 2006-105, p. 136, § 1.)

§ 34-14A-3. Home Builders Licensure Board.

Current through End of 2007 Regular Session.

There is established the Home Builders Licensure Board. The board shall have nine members, at least one from each United States Congressional District in this state, who shall be appointed as follows: three by the Governor, three by the Lieutenant Governor, and three by the Speaker of the House of Representatives, from a list of three qualified individuals for each position, provided by the governing body of the Home Builders Association of Alabama. Seven of the members shall be residential home builders, as defined in this chapter, with at least five years' experience as a residential home builder and each shall be a bona fide resident of the State of Alabama. One member shall be a building official or inspector currently employed by a city, county, or state governmental entity and actively engaged in inspecting or regulating residential construction in this state. One shall be a consumer member of the general public not employed by or affiliated with a licensee hereunder, and who has no spouse or immediate family member employed by or affiliated with a licensee hereunder. The membership of the board shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state. Of the initial members of this board, the appointing authorities shall designate that each appointee shall serve for an initial term of one, two, or three years, their terms of office expiring on December 31, of said years. Subsequent terms shall be for a period of three years. This appointing authority shall make an appointment to fill a vacancy for the remainder of any unexpired term from a list of three qualified

persons supplied by the governing body of the Home Builders Association of Alabama. Each board member shall hold over after the expiration of his term until his or her successor shall be duly appointed and qualified.

(Acts 1992, No. 92-608, p. 1282, § 3; Acts 1997, No. 97-250, p. 457, § 3.)

§ 34-14A-4. Meetings of board; compensation.

Current through End of 2007 Regular Session.

The board shall meet at such other times as the chair may designate; provided, however, that the board shall meet within 30 days after appointment for the purpose of organizing and transacting such business as may properly come before it. Four members shall constitute a quorum at all meetings. The secretary of the board shall keep such records of each meeting as shall be required by the board. Members of the board may be compensated in an amount not to exceed three hundred fifty dollars (\$350) per day, not to exceed 15 days per year, for attending meetings of the board or its committees and, in addition, may be reimbursed for such necessary travel expenses as are paid to state employees.

(Acts 1992, No. 92-608, p. 1282, § 4; Act 2006-105, p. 136, § 1.)

§ 34-14A-5. Licenses required; exceptions; fees.

- (a) All residential home builders shall be required to be licensed by the Home Builders Licensure Board annually.
- (b) Any person engaged in residential home building in Washington County shall be duly licensed by the board, without a written examination testing his or her experience and ability, by meeting the licensing requirements of Section 34-14A-7, by paying the required annual license fee, and by meeting any one of the following requirements by March 1, 2007:
- (1) The person submits to the board an affidavit showing that the residential home builder has constructed a minimum of one residence within the year prior to March 1, 2007, or five residences within the previous five years.
- (2) The person satisfies the board of his or her building qualifications and experience.
- (3) The person is currently licensed as a residential home builder by a jurisdiction in this state which requires an examination for licensure.
- (4) The person is a currently licensed residential remodeler by a jurisdiction in this state, who by his or her personal affidavit can establish that his or her business did a gross remodeling dollar volume in the previous calendar year of two hundred fifty thousand dollars (\$250,000) or more.
- (c) Except as provided in this chapter, all licenses shall be issued or renewed upon the payment to the board of the annual license fee. The annual license fee shall be set by the board after it considers its cost of operation. The annual fee may be increased or decreased by the board but in no event shall the board set the annual fee at an amount

which would not provide sufficient revenues to pay all the salaries, costs, and expenses incurred by the board in enforcing this chapter. The board may also charge application processing fees, inactive license fees, late fees, and fees for education requirements. The inactive fees may be waived for building officials. The board may, upon request in writing, refund fees, except the application processing fee, paid by an applicant who is denied a license or who fails to complete the application process. No fees shall be refunded to a licensee as a result of a license revocation. The annual license fee shall be for a period of 12 months beginning January first of each year. All license fees collected by the board shall be paid into the State Treasury to the credit of the Home Builders Licensure Board Fund and its funds shall be subject to withdrawal only upon warrant of the state Comptroller to be issued upon certification of the secretary/treasurer of the board.

- (d) Any funds remaining in the State Treasury to the credit of the Home Builders Licensure Board Fund at the end of each year shall be paid into the General Fund of the state on or before January 15, and in each succeeding year, except that should the board exercise its authority to establish the Homeowner's Recovery Fund or the Home Builders Property Acquisition Fund, or both, as provided in this chapter, any funds remaining in the State Treasury to the credit of the Home Builders Licensure Board Fund shall be paid into the Homeowner's Recovery Fund or the Home Builders Property Acquisition Fund, or both, of the board. The board is authorized to maintain sufficient funds to carry out the purposes of the Homeowner's Recovery Fund and the Home Builders Property Acquisition Fund, as set forth in Sections 34-14A-15 and 34-14A-18, including, but not limited to, the transfer of funds between the Homeowner's Recovery Fund and the Home Builders Property Acquisition Fund. The board is authorized, at all times, to retain a sum not in excess of two hundred fifty thousand dollars (\$250,000) to meet any emergency that may arise which may affect its efficient operation.
- (e) No funds shall be withdrawn or expended except as budgeted and allocated according to Sections 41-4-80 to 41-4-96, inclusive, and 41-19-1 to 41-19-12, inclusive, and only in amounts as stipulated in the general appropriations bill or other appropriations bills. (Acts 1992, No. 92-608, p. 1282, § 5; Acts 1997, No. 97-250, p. 457, § 3; Act 2002-72, p. 163, § 1; Act 2006-105, p. 136, § 1.)

§ 34-14A-6. Exemptions

Current through End of 2007 Regular Session.

This chapter does not apply to:

- (1) Any employee of a licensee who does not hold himself or herself out for hire or engage in contracting, except as such employee of a licensee.
- (2) An authorized employee of the United States, the State of Alabama, or any municipality, county, or other political subdivision, if the employee does not hold himself or herself out for hire or otherwise engage in contracting except in accordance with his or her employment.
- (3) General contractors holding a current and valid license, issued prior to January 1, 1992, under Sections 34-8-1 through 34-8-27.

- (4) Licensed real estate agents, licensed engineers, and licensed architects operating within the scope of their respective licenses on behalf of clients.
- (5) Owners of property when acting as their own contractor and providing all material supervision themselves, when building or improving one-family or two-family residences on such property for the occupancy or use of such owners and not offered for sale. In any action brought under this chapter, proof of the sale or offering for sale of such structure by the owners of property, as provided in this subdivision, within one year after completion of same is presumptive evidence that the construction was undertaken for the purpose of sale.
- (6) This chapter does not apply to mobile homes or to any structure that is installed, inspected, or regulated by the Alabama Manufactured Housing Commission or the repair, improvement, or reimprovement of any such structure, and shall not in any way change or interfere with the duties, responsibilities, and operations of the Alabama Manufactured Housing Commission as defined in Sections 24-4A-1 through 24-6-4.

(Acts 1992, No. 92-608, p. 1282, § 6; Act 2002-72, p. 163, § 1; Act 2006-105, p. 136, § 1.)

§ 34-14A-7. Applications for the issuance or renewal of license; records; inactive license.

- (a) Any residential home builder who desires to receive a new or renewal license under this chapter shall make and file with the board 30 days prior to the next meeting of the board a written application on a form prescribed by the board. Such application shall be accompanied by the payment of the annual license fee required by the board. After the board accepts the application the applicant may be examined by the board at its next meeting. The board in examining the applicant shall consider the following qualifications of the applicant:
- (1) Experience.
- (2) Ability.
- (3) Character.
- (4) Business-related financial condition.
- a. The board may require a financial statement on a form prescribed by the board and a public records search directly from a credit reporting agency.
- b. The board may require a positive net worth or other evidence of business-related financial condition sufficient to reasonably satisfy the board of the applicant's financial responsibility.
- c. The board may require that business-related judgments, judgment liens, and other perfected liens, must be satisfied and released.
- d. Any information obtained by the board pursuant to this subsection relating to the financial condition of an applicant shall not be public information.
- (5) Ability and willingness to serve the public and conserve the public health and safety.
- (6) Any other pertinent information the board may require.
- If the board finds the applicant qualified to engage in residential home building in Alabama, the applicant shall be issued a license. An applicant rejected by the board shall

be given an opportunity to be reexamined after a new application has been filed and an additional application fee paid.

A record shall be made and preserved by the board of each examination and the findings of the board pertaining to the examination. A copy of the record shall be made available to any applicant requesting it upon the payment of a reasonable fee for same to the board.

- (b) The board is authorized to establish or adopt, or both, education requirements and may approve or administer, or both, the program or programs providing education to fulfill the requirements.
- (c) Each licensee shall notify the board within 10 days after notice of the institution of any criminal prosecution against him or her, or of a civil complaint against him or her, if the subject matter of the civil complaint involves a residential home building transaction or involves the goodwill of an existing home building business or licensee. The notification shall be in writing, by certified mail, and shall include a copy of the complaint or, if a criminal charge, the specific charge made together with a copy of any indictment or information making the charges.
- (d) Each licensee shall notify the board in writing by certified mail within 10 days after he or she receives the notice that any criminal verdict has been rendered against him or her, or that a criminal action pending against him or her has been dismissed, or that a civil action in which he or she was a defendant and which involved a home building transaction or the goodwill of a home building business has resulted in a judgment or has been dismissed. The notification shall be in writing and shall include a copy of the court order or other document giving the licensee such notice.
- (e) Each licensee shall utilize a valid written contract when engaging in the business of residential home building.
- (f)(1)a. Any licensee who desires to receive an inactive license shall make and file with the board a written application for an inactive license on a form prescribed by the board prior to the expiration of his or her current license. The application shall be accompanied by the payment of the annual inactive license fee required by the board. No act for which a license is required may be performed under an inactive license. In the event a person holding a current inactive license applies for a license, he or she may rely upon his or her inactive license as evidence of the experience and ability requirements for licensure under subdivisions (1) and (2) of subsection (a).
- b. A person holding an expired license who seeks to reactivate his or her license within three years of the date of expiration shall be deemed to have satisfied the experience and ability requirements for licensure if application is made within the three-year time period and all other licensing requirements pursuant to subsection (a) have been met.
- (2) Any building official or building inspector who desires to receive an inactive license shall make and file with the board 30 days prior to the next meeting of the board a written application for an inactive license on a form prescribed by the board. After the board accepts the application, the applicant may be examined by the board at its next board meeting. The board, in examining the applicant, shall consider the following qualifications of the applicant as satisfying the experience and ability requirements for licensure:
- a. That the building inspector is an employee of the United States, the State of Alabama, or any municipality, county, or other political subdivision and, by virtue of that employment, is exempted or prohibited by law from holding a license; and

- b. That the building inspector does any of the following:
- 1. Maintains current certification from the Southern Building Code Congress International as one of the following:
- (i) Chief building official.
- (ii) Deputy building official.
- (iii) Building inspector.
- (iv) Housing inspector.
- (v) Design professional.
- (vi) Plan reviewer.
- 2. Maintains current certification from the International Code Council as one of the following:
- (i) Certified building official.
- (ii) Building inspector.
- (iii) Residential building inspector.
- (iv) Property maintenance and housing inspector.
- (v) Building plans examiner.
- (vi) Design professional.
- 3. Possesses sufficient building qualifications and experience to receive a license, as demonstrated by satisfactory evidence presented to the board.
- 4. In the event a building official or building inspector holding a current inactive license applies for a license, he or she may rely upon his or her inactive license as evidence of the experience and ability requirements for licensure under subdivisions (1) and (2) of subsection (a).

(Acts 1992, No. 92-608, p. 1282, § 7; Acts 1997, No. 97-250, p. 457, § 3; Act 2002-72, p. 163, § 1; Act 2006-105, p. 136, § 1.)

§ 34-14A-8. Revocation, etc., of license; consumer complaint; hearing; appeal; reissuance; fines.

- (a) The board may revoke or suspend the license of any licensee who, in the opinion of the board, has committed fraud or deceit in obtaining a license required by this chapter or who has been guilty of gross negligence, incompetence, or misconduct in the practice of residential home building. Should the board establish or adopt, or both, standards of practice for residential home builders within the state, as provided in Section 34-14A-12, the board may suspend the license of any licensee who, in the opinion of the board, has committed a violation of the standards of practice and may impose any other disciplinary sanctions authorized pursuant to this chapter.
- (b) An original homeowner may file a consumer complaint alleging a violation of this section against any licensee hereunder. Consumer complaints shall be made in writing and sworn to by the person making the consumer complaint and shall be submitted to the executive director of the board within six years of the date of substantial completion of construction or within six years of the date the original homeowner took possession of the residence.

- (c) An investigation may be initiated upon receipt of a consumer complaint or may be initiated by the board. The board may resolve violations by agreement between the board and the licensee with or without the filing of a formal administrative summons and complaint.
- (d) With the consent of the licensee, the board may conduct an informal hearing without meeting the requirements of the Administrative Procedure Act if no action is taken other than a reprimand, public or private.
- (e) The charges, unless dismissed without hearing by the board as unfounded or trivial, shall be heard within three months after the filing of an administrative summons and complaint by the board's executive director.
- (f) A copy of the charges, with notice of the time and place of the hearing, shall be served on the licensee charged at least 15 days before the hearing date.
- (g) The licensee charged may appear personally and may be represented by counsel. He or she may cross-examine witnesses against him or her and may produce evidence and witnesses in his or her defense.
- (h) If, after hearing, the board votes to revoke or suspend the license of, or impose a fine upon, the licensee charged on the basis of fraud or deceit in obtaining his or her license or gross negligence, incompetence, or misconduct in the practice of residential home building, or a violation of the standards of practice, it shall so order.
- (i) The licensee may, within 30 days from the date of receipt or service of the order, file with the board written notice of his or her intention to appeal from the order of the board. Appeals from orders of the board shall be to the circuit court with jurisdiction of licensee's residence, or if the licensee is out of state, then to the Circuit Court of Montgomery County, for a determination by the court whether the decision of the board is supported by substantial evidence. If the court so finds it shall affirm the action of the board.
- (j) The board may issue a license to a licensee whose license has been revoked, and may reinstate a suspended license prior to the end of the suspension period, if four or more members of the board vote in favor of the issuance or reinstatement.
- (k) In addition to any other disciplinary action authorized pursuant to this chapter, the board may require a licensee to successfully complete education requirements to be determined by the board and may levy and collect administrative fines for violations of this chapter or the rules or regulations of the board in an amount not to exceed two thousand dollars (\$2,000) for each violation.

(Acts 1992, No. 92-608, p. 1282, § 8; Acts 1997, No. 97-250, p. 457, § 3; Act 2002-72, p. 163, § 1; Act 2006-105, p. 136, § 1.)

§ 34-14A-9. Roster of licensees.

Current through End of 2007 Regular Session.

A complete roster of licensees shall be prepared and published annually by the board. (Acts 1992, No. 92-608, p. 1282, § 9.)

§ 34-14A-10. Annual report of board.

Current through End of 2007 Regular Session.

The board shall annually submit to the Governor a report of its transactions for the preceding year. The board shall file with the Secretary of State a copy of the report submitted to the Governor.

(Acts 1992, No. 92-608, p. 1282, § 10.)

§ 34-14A-11. Promulgation of rules and regulations; mailings.

Current through End of 2007 Regular Session.

- (a) The board is authorized to promulgate rules and regulations necessary to effectuate the provisions of this chapter and accomplish its work. The rule-making powers of the board are subject to the Alabama Administrative Procedure Act as codified in Chapter 22 of Title 41.
- (b) For the purposes of this chapter, any notice, application, or other document required herein which is mailed certified mail return receipt requested, shall be deemed to have been filed as of the date it is postmarked. The provisions of this subsection shall be retroactively effective to all mailings relating to board business occurring on or after May 21, 1992.

(Acts 1992, No. 92-608, p. 1282, § 11; Acts 1997, No. 97-250, p. 457, § 3.)

§ 34-14A-12. Standards of practice; building laws and codes.

- (a) The board is authorized to establish or adopt, or both, standards of practice for residential home builders within the state.
- (b) The county commissions of the several counties are authorized and empowered to adopt building laws and codes by ordinance which shall apply in the unincorporated areas of the county. The building laws and codes of the county commission shall not apply within any municipal police jurisdiction, in which that municipality is exercising its building laws or codes, without the express consent of the governing body of that municipality. The building laws and codes of the county commission may apply within the corporate limits of any municipality with the express consent of the governing body of the municipality. The county commission may employ building inspectors to see that its laws or codes are not violated and that the plans and specifications for buildings are not in conflict with the ordinances of the county and may exact fees to be paid by the owners of the property inspected.
- (c) Utilizing the same authority and procedures as municipalities pursuant to Sections 11-53A-20 to 11-53A-26, inclusive, the county commission may condemn buildings, parts of buildings, or structures dangerous to the public and prohibit the use thereof and abate the same as a nuisance.

(d) The county commissions, municipalities, and other public entities are hereby authorized to enter into mutual agreements, compacts, and contracts for the administration and enforcement of their respective building laws and codes. (Acts 1992, No. 92-608, p. 1282, § 12; Act 2002-72, p. 163, § 1; Act 2006-105, § 1.)

§ 34-14A-13. Issuance of permits.

Current through End of 2007 Regular Session.

It is the duty of the building official, or other authority charged with the duty, of issuing building or similar permits, of any incorporated municipality or subdivision of the municipality or county, to refuse to issue a permit for any undertaking which would require a license hereunder unless the applicant has furnished evidence that he or she is either licensed as required by this chapter or is exempt from the requirements of this chapter. The building official, or other authority charged with the duty of issuing building or similar permits, shall report to the board the name and address of any person who, has violated this chapter. Nothing contained herein shall require a builder to pay license fees for subcontractors who will be or were involved in the construction for which the permit is being obtained as a condition of the issuance of a building permit or the issuance of a certificate of occupancy. The builder shall submit to the issuing municipality if requested a list of the subcontractors with correct physical address and phone numbers involved in the construction project within 15 days of the issuance of the building permit. Should the builder add any other subcontractor to the project, the builder will submit the subcontractors name, address, and phone number to the municipality within three working days of hiring. An updated list of subcontractors shall be furnished by the builder before the issuance of a certificate of occupancy by the municipality.

(Acts 1992, No. 92-608, p. 1282, § 13; Acts 1997, No. 97-250, p. 457, § 3; Act 2000-99,

§ 34-14A-14. Violations; complaint procedures.

Current through End of 2007 Regular Session.

Any person who undertakes or attempts to undertake the business of residential home building without holding a current and valid residential home builders license, issued by the Home Builders Licensure Board, as required by the provisions of this chapter or who knowingly presents to, or files false information with the board for the purpose of obtaining the license or who violates any law or code adopted by a county commission under this chapter shall be deemed guilty of a Class A misdemeanor. Upon notice from the board, any person who undertakes or attempts to undertake the business of residential home building without holding a current and valid residential home builders license, as required by the provisions of this chapter, shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to his or her agent, or to the residential home builder, or to the person doing the work, and shall state the conditions under which work may be resumed.

The board may invoke a complaint procedure against any person who violates this chapter by undertaking or attempting to undertake the business of home building without holding a current and valid residential home builders license issued by the board. Whenever it appears to the board that any residential home builder has violated or is about to violate this chapter, the board may resolve the violation by agreement with the residential home builder, may initiate a complaint against the residential home builder, and may levy and collect administrative fines for violations of this chapter or the rules of the board in an amount not to exceed two thousand dollars (\$2,000) for each violation. A residential home builder, who does not have the license required, shall not bring or maintain any action to enforce the provisions of any contract for residential home building which he or she entered into in violation of this chapter.

Whenever it shall appear to the board that any residential home builder has violated or is about to violate this chapter, the board may in its own name petition the circuit court of the county where the violation occurred or is about to occur to issue a temporary restraining order or other appropriate injunctive relief enjoining the violation. (Acts 1992, No. 92-608, p. 1282, § 14; Acts 1997, No. 97-250, p. 457, § 3; Act 2002-72, p. 163, § 1; Act 2006-105, § 1.)

§ 34-14A-15. Recovery fund.

Current through End of 2007 Regular Session.

The board is authorized to establish a Homeowner's Recovery Fund from which an aggrieved homeowner may recover actual economic damages, not including interest and court costs, sustained within the State of Alabama as the direct result of conduct of a licensee in violation of this chapter or the rules and regulations of the board. Any payments from the Homeowner's Recovery Fund shall be subject to the following limitations and conditions:

- (1) Payments for claims based on judgments or settlements against any one licensee shall not exceed fifty thousand dollars (\$50,000) in the aggregate.
- (2) Payments for claims arising out of the same transaction shall not exceed twenty thousand dollars (\$20,000) in the aggregate.
- (3) The Homeowner's Recovery Fund shall make payments only to homeowners who file a complaint with the board pursuant to the requirements of subsection (b) of Section 34-14A-8.
- (4) The Homeowner's Recovery Fund shall not make payments based on consent judgments.
- (5) Failure of the homeowner to follow any provisions of this chapter shall preclude payment from the Homeowner's Recovery Fund.

Each licensee shall, on order of the board, pay a fee not to exceed sixty dollars (\$60), no more than once a year, per licensee for deposit in the Homeowner's Recovery Fund. A licensee on inactive status shall not be required to contribute to the Homeowner's Recover Fund. The annual Homeowner's Recovery Fund fee shall be set by the board after considering all expenses incurred by the board in defending, satisfying, or settling any claims paid from the Homeowner's Recovery Fund.

When a complaint is filed which may result in liability for the Homeowner's Recovery Fund, the complainant shall notify the board in writing, by certified mail, when the action is commenced.

When the notice is received, the board may enter an appearance, file pleadings and appear at court hearings, defend or take action it deems appropriate either on the behalf and in the name of the defendant or in its own name. The board may seek any appropriate method of judicial review. The board may settle or compromise the claim. Any expenses incurred by the board in defending, satisfying, or settling any claim shall be paid from the Homeowner's Recovery Fund.

When a complainant obtains a valid judgment, excluding consent judgments, in a court of competent jurisdiction against a licensee on the grounds set out above, the aggrieved homeowner may, when judgment is final, file a verified claim in the court in which the judgment was entered and, on 30 days' written notice to the board, may apply to the court for an order directing payment out of the Homeowner's Recovery Fund of the amount remaining unpaid on the judgment.

The court shall proceed on such application forthwith and, on hearing, the complainant shall be required to show that:

- (1) He or she is not the spouse, child, or parent of the debtor, or the personal representative of the spouse, child, or parent or a shareholder, officer, or director of the debtor.
- (2) He or she has obtained a judgment, as described in this section, stating the amount of the judgment and the amount owing on the judgment at the date of the application, and, that in such action, he or she had joined any and all bonding companies which issued corporate surety bonds to the judgment debtor as principal and all other necessary parties.
- (3) The following items, if recovered by him or her, have been applied to the actual compensatory damages awarded by the court:
- a. Any amount recovered from the judgment debtor.
- b. Any amount recovered from bonding companies.
- c. Any amount recovered in out-of-court settlements.

The court shall order the Homeowner's Recovery Fund to pay the sum it finds due, subject to the provisions and limitations of this section.

Should the board pay from the Homeowner's Recovery Fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensee, all licenses of the licensee may be terminated by the board. The board may refuse to issue a new license to the former licensee until he or she has repaid in full, plus interest at the rate of 12 percent per annum, the amount paid from the Homeowner's Recovery Fund. A discharge in bankruptcy shall not relieve a person from the penalties and disabilities provided in this section.

If the balance in the Homeowner's Recovery Fund is insufficient to satisfy a duly authorized claim or portion of a claim, the board shall, when sufficient money has been deposited in the Homeowner's Recovery Fund, satisfy the unpaid claims in the order that the claims were filed.

The sums received by the board, pursuant to the provisions of this section, shall be deposited into the State Treasury and held in a special fund to be known as the Homeowner's Recovery Fund, and shall be held by the board in trust for carrying out the purposes of the Homeowner's Recovery Fund. These sums may be invested by the State

Treasurer in any investments which are legal under the laws of this state. Any interest or other income from investments of the Homeowner's Recovery Fund shall be deposited into the Homeowner's Recovery Fund.

When, on order of the court, the board has paid from the Homeowner's Recovery Fund any sum, the board shall be subrogated to all the rights of the judgment creditor, and all his or her rights, title, and interest in the judgment, to the extent of the amount paid from the Homeowner's Recovery Fund, shall thereby be assigned to the board. Any amount and interest recovered by the board on the judgment shall be deposited to the Homeowner's Recovery Fund.

The limitations and conditions of payment from the Homeowner's Recovery Fund as established by Act 2002-72 shall not apply in any case where, prior to May 1, 2002, a complainant has obtained a valid judgment in a court of competent jurisdiction against a licensee on the grounds set out in this chapter.

(Acts 1992, No. 92-608, p. 1282, § 15; Acts 1997, No. 97-250, p. 457, § 3; Act 2002-72, p. 163, § 1; Act 2006-105, § 1.)

§ 34-14A-16. Applicability to certain counties. Repealed by Act 2006-105, p. 136, § 3, effective May 1, 2006.

Current through End of 2007 Regular Session.

§ 34-14A-17. Sunset provision.

Current through End of 2007 Regular Session.

The Home Builders Licensure Board shall be an enumerated board pursuant to Sections 41-20-1 through 41-20-16, and shall be reviewed at the same time as the State board of Medical Examiners.

(Acts 1992, No. 92-608, p. 1282, § 17.)

§ 34-14A-18. Acquisition, etc., of real property; property acquisition fund.

Current through End of 2007 Regular Session.

(a) The board may acquire and hold, in its own name, real property by purchase, gift, lease, lease with the option to purchase, or other lawful means, except eminent domain, which real property is used by the board to carry out its responsibilities. The board may also transfer, sell, convey, or cause to be conveyed real property and any improvements thereon, subject to the requirements of this section. In purchasing any real property, maintaining it, or making improvements thereto, the board may expend any funds contained in the Home Builders Property Acquisition Fund established by subsection (b), and any obligations created in connection with the purchase or improvement of the real property shall not create debts, obligations, or liabilities of the State of Alabama. As used in this section, real property shall include land, lots, and all things and interests, including leasehold interests, pertaining thereto, and all other things annexed or attached to the land which would pass to a vendee by conveyance of the land or lot, including mineral and gas

and oil interests. All sales or leases made by the board of any real property owned or held by the board shall be subject to the requirements of Article 3, commencing with Section 9-15-70, Chapter 15, Title 9. Notwithstanding the foregoing, the proceeds from the sale of real property owned by the board which are distributed pursuant to Section 9-15-83, shall be paid to the board and deposited into the property acquisition fund.

- (b) The board may establish a property acquisition fund, the proceeds from which may be used by the board for the acquisition of real property. Each licensee shall, on order of the board, pay a fee not to exceed sixty dollars (\$60), no more than once a year, per license for deposit in the property acquisition fund. A licensee on inactive status shall not be required to contribute to the property acquisition fund.
- (c) The funds received by the board pursuant to this section shall be deposited into the State Treasury and held in a special fund to be known as the Home Builders Property Acquisition Fund and shall be held by the board in trust for carrying out the purposes of the property acquisition fund. The funds so received may be invested by the State Treasurer in any investments which are legal under the laws of this state. Any interest or other income from investments of the property acquisition fund shall be deposited into the fund. At the end of each fiscal year, any unencumbered and unexpended balance of the amount appropriated for that fiscal year shall not revert to the State General Fund of the State Treasury under Section 41-4-93, but shall carry over to the next fiscal year. (Act 2006-105, p. 136, § 2.)

Board Members



445 HERRON STREET

M O N T G O M E R Y A L A B A M A 3 6 1 3 0 - 3 6 0 5

> (334) 242-2230

FACSIMILE (334) 263-1397

WEBSITE www.hblb.state.al.us

May 22, 2008

Examiners of Public Accounts 50 N. Ripley Street, Room 3201 Montgomery, AL 36130

Gentlemen:

The following is a listing of the Home Builders Licensure Board members as of January 2008:

Janice Warren, Chairman Warren Real Estate P. O. Box 1968 Albertville, Alabama 35950 Status: Current; Expires: 12/31/08 Lt. Governor's Appointee, Congressional District 4

Jayne E. Ward, Sec./Treas. 8743 Morning Place Montgomery, Alabama 36117 Status: Current; Expires: 12/31/08 Governor's Appointee, Consumer Member

Jim E. Mitchell, Sr. 354 Shiloh Lane Talladega, Alabama 35160 Status: Current; Expires: 12/31/10 Lt. Governor's Appointee, Congressional District 6 John T. Manuel, Vice Chairman Manuel Construction 502 Bayshore Avenue Mobile, Alabama 36607 Status: Current; Expires: 12/31/09 Speaker of House Appointee, Congressional District 1

Donald G. Nolan Nolan Construction 1110 Lee Road 244 Salem, Alabama 36874 Status: Current; Expires: 12/31/08 Speaker of House Appointee, Congressional District 3

Victor E. Hanan 8637 Millchase Court Montgomery, Alabama 36117 Status: Current; Expires: 12/31/07 Speaker of House Appointee, Congressional District 2 Hulan B. Smith City of Huntsville, Inspection Dept. Post Office Box 308 Huntsville, Alabama 35804 Status: Current; Expires: 12/31/09 Lt. Governor's Appointee, Building Official Member

Jack B. Reid Reid Construction 120 Rivermont Road Florence, Alabama 35634 Status: Current; Expires 12/31/09 Governor's Appointee, Congressional District 5

Sincerely

J. R. CARDEN, JR. Executive Director

John C. Parker Parker Development Company 550 Clay Street Montgomery, Alabama 36101 Status: Current; Expires 12/31/10 Governor's Appointee, Congressional District 7

J. R. Carden, Jr., Executive Director Home Builders Licensure Board 445 Herron Street Montgomery, AL 36130-3605 Status: Current

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Response to Significant Items



445 HERRON STREET

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WEBSITE www.hblb.state.al.us May 22, 2008

Mr. John E. Norris Director, Operational Division Examiners of Public Accounts 50 North Ripley Street, Room 3201 Montgomery, AL 36130

SIGNIFICANT ITEMS

 Reconciliation of amounts recorded as received to amounts deposited was not done, thereby unnecessarily increasing the risk that state funds could be lost or misused without detection. Applications with accompanying fees were accepted at the front desk, either by mail or walk-ins, where a daily log was established. The log was not reconciled to deposits thereby increasing the risk that state funds could be lost or misused without detection.

RESPONSE

The Home Builders Licensure Board has implemented reconciliation procedures for its daily check log to insure state funds will not be lost or misused.

2. **Performance information reported to the Department of Finance for the state's SMART budget reports could not be substantiated.** In reviewing the agency's 06-07 fiscal year performance goals and objectives, the board was unable to substantiate the data provided in the SMART quarterly performance report. Therefore, the data cannot be relied upon by users of the report.

RESPONSE

The Homebuilders Licensure Board met with the Department of Finance's SMART Budget office and has changed its goals and objectives to a more verifiable form of data.

3. Four of the six board members responding to our questionnaire cited the need for a larger carryover of operating funds at year end. Statutes currently require the board to transfer balances in excess of \$250,000 in its operating fund into its recovery fund. \$250,000 is 10.7% of the board's operating disbursements for the 2007 fiscal year.

RESPONSE

Sincerel

The Home Builders Licensure Board has grown tremendously over the past fifteen years. Its number of licensees has tripled in the last ten years. The Board sees it necessary, given its growth and uncertain economic conditions, to have the ability to carry over \$500,000 to the following fiscal year.

J. R. CARDEN, JR.

Executive Director